

Message Text

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ACTION L-03

INFO OCT-01 ARA-06 ISO-00 AID-05 CIAE-00 COME-00 EB-07

FRB-03 INR-07 NSAE-00 USIA-06 TRSE-00 XMB-02 OPIC-03

SP-02 CIEP-01 LAB-04 SIL-01 OMB-01 NSC-05 SS-15

STR-04 CEA-01 PRS-01 H-02 /080 W

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R 181631Z OCT 76

FM AMEMBASSY CARACAS

TO SECSTATE WASHDC 5213

C O N F I D E N T I A L SECTION 1 OF 2 CARACAS 12339

E.O. 11652: GDS

TAGS: PINS, ASEC, EINV, VE

SUBJECT: OWENS-ILLINOIS CASE

REF: STATE 251587

1. SUMMARY: MINISTER FOR BASIC INDUSTRIES LAURIA HAS INDICATED GOV WOULD PROCEED WITH ARBITRATION PROCESS WITH OWENS-ILLINOIS NOW THAT HE HAS LIST OF SUGGESTED THIRD ARBITRATOR. HE TOLD AMBASSADOR A) THAT IT WAS IMPERATIVE TO GET ARBITRATION PROCESS STARTED HOWEVER LONG IT TOOK; B) THAT GOV DID NOT WANT TO RESORT TO EXPROPRIATION LEGISLATION BUT WOULD AS A LAST RESORT IF EVERYTHING ELSE FAILED; AND C) THAT THERE WAS ABSOLUTELY NO ALTERNATIVE TO A BUY-OUT OF O-I EQUITY. MINISTER'S STATEMENTS (AS WELL AS SIMILAR OPINIONS EXPRESSED EARLIER BY INTERIOR MINISTER LEPAGE) SUGGEST THAT ANY TACTIC DESIGNED TO PLAY FOR TIME IN THE HOPE THAT THE GOV MAY EVENTUALLY RELENT FROM ITS DECISION OR AGREE TO SOME OTHER FORMULA PERMITTING O-I TO REMAIN MAY BE THE WRONG ONE. THE GOV APPEARS DETERMINED THAT IT WILL BUY OUT O-I; THE ONLY
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QUESTION FOR IT IS HOW. END SUMMARY.

2. I DISCUSSED OWENS-ILLINOIS WITH MINISTER CARMELO LAURIA ON OCTOBER 13 EXPLAINING THAT AS I WAS NEWLY ARRIVED, I WANTED TO BE SURE THAT I UNDERSTOOD THE GOV POSITION. I ASKED HOW HE SAW THE CASE. IN REPLY THE MINISTER MADE THE FOLLOWING POINTS:

(A) THE OWENS-ILLINOIS DECISION WAS TAKEN BY THE CABINET IN FULL IN THE CONVICTION THAT THERE COULD BE NO YIELDING TO KIDNAPPERS' DEMANDS. THAT DECISION HAVING BEEN VIOLATED, O-I COULD NO LONGER BE ACCEPTED AS PERSONNA GRATA. IT WAS NOT A QUESTION OF PUNISHMENT, BUT SIMPLY THAT THEY COULD NOT CONTINUE AS BEFORE. A PERSON WOULD HAVE BEEN ASKED TO LEAVE, BUT WOULD BE ENTITLED TO TAKE HIS BELONGING WITH HIM. SOMEWHAT ANALOGOUSLY, THE COMPANY COULD NOT CONTINUE, BUT A FAIR SETTLEMENT OF ITS ASSETS WAS ESSENTIAL.

(B) POLITICALLY THERE WAS ABSOLUTELY NO ALTERNATIVE TO A BUY-OUT OF THE COMPANY'S EQUITY.

(C) THE QUESTION WAS HOW THIS WAS TO BE ACHIEVED. IF NECESSARY, THE GOVERNMENT WOULD SUBMIT TO THE CONGRESS A BILL EXPROPRIATING THE COMPANY. IT DOES NOT WANT TO DO THAT, PREFERRING A MORE AMICABLE ROUTE. THAT IS WHY THE PRESIDENT AGREED TO THE ARBITRATION ROUTE, AND THAT IS THE WAY THEY PREFER TO GO. AS A LAST RESORT, HOWEVER, IF THE ARBITRATION ROUTE FAILS, THEY WILL GO THE EXPROPRIATION ROUTE.

(D) THERE HAS APPARENTLY BEEN SOME MISUNDERSTANDING ON THE COMPANY'S PART. IT APPARENTLY MISUNDERSTOOD REMARKS LAURIA MADE IN NEW YORK ABOUT FLEXIBILITY TO MEAN THAT HE WAS WILLING TO LET THE CASE SIMPLY DRAG. THIS WAS NOT SO.

(E) IT WAS ABSOLUTELY ESSENTIAL TO SHOW SOME PRO-CONFIDENTIAL

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GRESS IN SETTING IN MOTION ARBITRATION PROCEDURES. HOW LONG THE ARBITRATION TOOK WAS ANOTHER MATTER, BUT IT MUST AT LEAST GET STARTED. THE GOV COULD NOT JUSTIFY NO MOTION AT ALL.

(F) HE FELT THE COMPANY HAS BEEN STALLING IN NOT PROPOSING NAMES FOR A THIRD ARBITRATOR, WHICH IS WHY HE PRESSED THE COMPANY.

(G) HE HAS NOW RECEIVED "INFORMALLY" A LIST OF NAMES PROPOSED AS THE THIRD ARBITRATOR BY THE ICC WITH BIO DATA AND WAS STUDYING THEM. HE HAS THE IMPRESSION THAT THE COMPANY WILL AGREE TO WHOMEVER THE GOV SELECTS FROM THAT LIST. HE IS DISCUSSING THE LIST WITH THE PRESIDENT AND HOPES THAT THEY CAN NOW PROCEED TO SET THE ARBITRATION IN MOTION. (THE MINISTER MADE NO MENTION OF THE THIRD ARBITRATOR HAVING TO BE A VENEZUELAN).

3. THROUGH THIS CONVERSATION I ESSENTIALLY LISTENED, STATING THAT I SIMPLY WANTED INFORMALLY TO BE SURE I UNDERSTOOD HIS AND THE GOV'S VIEWPOINT. I SAID DEPENDING ON HOW THINGS DEVELOPED, I MAY WANT TO TALK TO HIM AGAIN LATER.

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R 181631Z OCT176

FM AMEMBASSY CARACAS

TO SECSTATE WASHDC 5214

C O N F I D E N T I A L SECTION 2 OF 2 CARACAS 12339

4. IN MY EARLIER CONVERSATION WITH MINISTER OF INTERIOR LEPAGE ON THE NIEHOUS CASE, THE MINISTER STATED ALMOST EXACTLY THE SAME POSITION ON THE O-I SITUATION WHEN HE SAID THAT IT WAS POLITICALLY IMPOSSIBLE TO DO ANYTHING OTHER THAN PURCHASE THE COMPANY'S SHARES; BUT THE GOVERNMENT DID NOT INTEND TO CONFISCATE, IT WANTS TO BE FAIR.

5. COMMENTS. FOR THE MOMENT APPARENTLY THE GOV WILL PROCEED WITH ARBITRATION AND NOT SEEK AN EX-PROPRIATION LAW. I DO THINK, HOWEVER, THAT THE COMPANY WOULD BE DELUDING ITSELF IF IT HARBORS ANY THOUGHT THAT THE GOV MIGHT IN TIME RELENT FROM ITS DECISION TO BUY OUT O-I, OR THAT SOMETHING OTHER THAN A BUY-OUT MIGHT BE ARRANGED, PERMITTING O-I TO REMAIN AND RETAIN ITS EQUITY. AS FAR AS I CAN SEE, THE GOV CONSIDERS THAT THAT HAS BEEN DECIDED. INDEED, I SUSPECT THAT AS THE PRESIDENTIAL ELECTIONS GET CLOSER, IT WILL BE MORE, RATHER THAN LESS DIFFICULT, FOR PRESIDENT PEREZ TO REVERSE HIMSELF. FOR THE GOV, THE ONLY ISSUE IS HOW THE BUY-OUT IS TO BE ARRANGED, I.E. BY LEGISLATIVE MANDATE OR NEGOTIATED VIA ARBITRATION. LAURIA INDICATES THE LATTER IS PREFERRED, AND I HAVE THE IMPRESSION THAT THE GOV WOULD BE CONFIDENTIAL

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GENEROUS.

6. IN VIEW OF THIS, ANY TACTIC OF SIMPLY PLAYING FOR TIME IN THE HOPES THAT SOMETHING MIGHT HAPPEN TO LEAD PRESIDENT PEREZ TO RELENT MAY BE THE WRONG ONE. IT WAS LAURIA'S GROWING BELIEF THAT THIS IS PRECISELY WHAT THE COMPANY WAS DOING THAT ALMOST LED TO AN EXPROPRIATION BILL.

7. IN THIS CONNECTION, I NOTE THAT FOR THE MOMENT WHAT LAURIA WANTS TO DO IS TO GET THE PROCESS STARTED; HE NOTED THAT HE WAS NOT PARTICULARLY CONCERNED ABOUT WHETHER THE PROCESS TOOK ONE MONTH OR SIX MONTHS. THOUGH I SUSPECT THAT THAT DOES NOT MEAN HE WILL WAIT INDEFINITELY FOR THE PROCESS EITHER, HIS IMMEDIATE PROBLEM IS TO DEMONSTRATE SOME MOTION. THEREFORE, IN MY VIEW, THE COMPANY WOULD BE WELL ADVISED TO GET THE ARBITRATION UNDERWAY.
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